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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DVL, INC. and DVL KEARNY
HOLDINGS, LLC,

Plaintiffs,

v.

CONGOLEUM CORPORATION and
BATH IRON WORKS CORPORATION,

Defendants.

Civil Action No. 17-4261 (KM) (JBC)

**DECLARATION OF GEORGE C.
JONES IN SUPPORT OF
BIW'S MOTION TO COMPEL
PRODUCTION OF
SETTLEMENT DOCUMENTS**

GEORGE C. JONES, of full age, hereby declares as follows:

1. I am an attorney-at-law of the State of New Jersey and a partner in the firm of McElroy, Deutsch, Mulvaney & Carpenter, LLP. Our firm is counsel of record for Defendant Bath Iron Works Corporation ("BIW") in the above-captioned matter.

2. I submit this declaration in support of BIW's Motion to Compel Production of Settlement Documents.

3. Attached hereto as Exhibit 1 is a true copy of an email exchange between counsel for BIW and counsel for Congoleum occurring from March 14, 2019 to March 29, 2019, regarding the issues in dispute and a meet and confer that took place on March 28, 2019.

4. Attached hereto as Exhibit 2 is a true and correct copy of Congoleum's February 28, 2002 Amended Answer from its insurance coverage litigation in New Jersey Superior Court (Docket No. MID-L-8908-01 (N.J. Super. Ct.), the "Coverage Action").

5. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the deposition of Howard Feist taken on May 21, 2019, in this Action.

6. Attached hereto as Exhibit 4 is a true and correct copy Exhibit 18 from Mr. Feist's May 21, 2019 deposition in this Action, which is a March 14, 2007 letter from Congoleum's corporate counsel, Dughi Hewit, to Ernst & Young LLP regarding a 2006 audit of Congoleum.

7. Attached hereto as Exhibit 5 is a true and correct copy of Congoleum's Answer and Counterclaims in *Bath Iron Works Corporation v. Congoleum Corporation*, Case No. 2:19-cv-12517, the "Transferred Action," Dkt. No. 21, filed on June 14, 2019.

8. Attached hereto as Exhibit 6 is a true and correct copy of a trial transcript excerpt from Congoleum's bankruptcy action filed in the United States Bankruptcy Court for the District of New Jersey, Case No. 03-51524 (KCF), the "Bankruptcy Action," dated September 11, 2006.

9. Attached hereto as Exhibit 7 is a true and correct copy of Congoleum's March 15, 2019 ESI Privilege Log.

10. Attached hereto as Exhibit 8 is a true and correct copy of an April 17, 2019 letter from Dughi Hewit to the Environmental Protection Agency regarding the Diamond Alkali Superfund Site, bearing the Bates number CONG_0264073.

11. Attached hereto as Exhibit 9 is a true copy of a March 8, 2019 email exchange from C. Otero to BIW counsel regarding a motion to compel.

12. Attached hereto as Exhibit 10 is a true and correct of Century Indemnity Company's Objections and Responses to BIW's Subpoena to Produce Documents, dated December 10, 2018.

13. Attached hereto as Exhibit 11 is a true and correct copy of the June 2, 2004 Protective Order entered by the United States Bankruptcy Court for the District of New Jersey.

14. Attached hereto as Exhibit 12 is a true and correct copy of the June 6, 2002 Confidentiality Agreement and Order entered by the Middlesex County Superior Court.

15. Attached hereto as Exhibit 13 is a true and correct copy of the May 30, 2006 Order for Mediation entered by the United States Bankruptcy Court for the District of New Jersey.

16. Attached hereto as Exhibit 14 is a true and correct copy of a January 15, 1998 letter from Dughi Hewit to the Environmental Protection Agency regarding the Diamond Alkali Superfund Site, bearing the Bates number CONG_0005990.

17. Attached hereto as Exhibit 15 is a true and correct copy of the October 26, 2017 Diamond Alkali Superfund Site OU2 Allocation Confidentiality Agreement, CERCLA Docket No. 02-2016-2021.

18. Attached hereto as Exhibit 16 is a true and correct copy of Congoleum's April 12, 2019 Supplemental ESI Privilege Log.

19. Attached hereto as Exhibit 17 is a true copy of an e-mail exchange between counsel for BIW and counsel for Congoleum occurring between December 20, 2018 and January 24, 2019 regarding the issues in dispute and a meet and confer that took place on January 23, 2019.

20. BIW has conferred with counsel for Defendant Congoleum Corporation (“Congoleum”) in a good faith effort to resolve by agreement the issues raised by this motion without the intervention of the Court. The parties have been unable to reach agreement. Counsel for BIW and Congoleum initially met and conferred regarding the issues on January 23, 2019, following an exchange of e-mails during December 2018 and January 2019. (See attached Exhibit 17.) However, the parties were unable to resolve the issues. They then presented the dispute to the Court by way of a series of letters pursuant to Local Civil Rule 37.1(a). (Dkt. Nos. 90, 95, 96.) By Letter Order dated March 18, 2019 (Dkt. No. 99), the Court ordered the parties to meet and confer in an attempt to resolve their issues and directed them to submit a joint letter in the event they were unable to do so. Pursuant to that order counsel for BIW and Congoleum met and conferred again on March 28, 2019. (See attached Exhibit 1.) After that meeting failed to resolve the dispute, counsel submitted a joint letter to the Court on April 9, 2019. (Dkt. No. 100.) By Letter Order dated May 28, 2019 (Dkt. No. 110), the Court then ordered BIW to file this formal motion.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

/s/ George C. Jones
GEORGE C. JONES

Dated: June 21, 2019